

AO 243 (Rev. 2/95)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District <u>Puerto Rico</u>
Name of Movant <u>Jose Reyes-Reyes</u>	Prisoner No. <u>21274-069</u>	Case No. <u>99-CR-330(PG)</u>
Place of Confinement Low Security Correctional Institution-Allenwood P.O. Box 1000, White Deer, PA 17887-1000		
UNITED STATES OF AMERICA		V. Jose Reyes-Reyes (name under which convicted)
MOTION		
1. Name and location of court which entered the judgment of conviction under attack <u>U.S. District Court</u> <u>District of Puerto Rico.</u>		
2. Date of judgment of conviction <u>January 31, 2003.</u>		
3. Length of sentence <u>120 months.</u>		
4. Nature of offense involved (all counts) <u>Conspiracy to possess with intent to distribute cocaine; 21 U.S.C. §841(a) and 846 (Two Indictments 99-CR-330(PG) and 01-CR-127(JAG) consolidated for sentencing).</u>		
5. What was your plea? (Check one) (a) Not guilty <input type="checkbox"/> (b) Guilty <input checked="" type="checkbox"/> (c) Nolo contendere <input type="checkbox"/>		
If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: <u>N/A</u>		
6. If you pleaded not guilty, what kind of trial did you have? (Check one) (a) Jury <input type="checkbox"/> (b) Judge only <input type="checkbox"/> 7. Did you testify at the trial? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 8. Did you appeal from the judgment of conviction? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

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9. If you did appeal, answer the following:

(a) Name of court U.S. Court of Appeals, First Circuit.

(b) Result Judgment affirmed.

(c) Date of result November 2, 2004.

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes No

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court N/A

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes No

(5) Result N/A

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Name of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes No

(5) Result _____ N/A

(6) Date of result _____

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(I) First petition, etc. Yes No

(2) Second petition, etc. Yes No

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

NA

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of these grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Denial of effective assistance of counsel on appeal.

Supporting FACTS (state *briefly* without citing cases or law): Whether counsel was ineffective for failing to file an appeal based upon a jurisdictional defect at the sentencing when petitioner was imprisoned or otherwise detained and given additional punishment absent an Act of Congress to authorize said additional punishment pursuant to the National Firearms Act.

B. Ground two: N/A

Supporting FACTS (state *briefly* without citing cases or law):

C. Ground three: N/A

Supporting FACTS (state *briefly* without citing cases or law):

D. Ground four: _____ N/A _____

Supporting FACTS (state *briefly* without citing cases or law): _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____

N/A _____

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes No

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing _____ Manuel San Juan, Esq.

P.O. Box 9023587, San Juan, PR 00902-3587.

(b) At arraignment and plea _____ Same as above.

(c) At trial _____ There was no trial in the above matter.

(d) At sentencing _____ Same as above.

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(e) On appeal _____ Saul Roman Santiago, Esq., _____

P.O. Box 191736, San Juan, PR 00919-1736

(f) In any post-conviction proceeding _____ N/A _____

(g) On appeal from any adverse ruling in a post-conviction proceeding _____

N/A _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes No

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes No

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

N/A _____

(b) Give date and length of the above sentence: _____ N/A _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes No

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

7-7-05

Date

Signature of Movant

Jose Reyes-Reyes - Pro Se
 Reg. No. 21274-069
 LSCI Allenwood
 P.O. Box 1000
 White Deer, PA 17887-1000